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Judiciary Committee
February 19, 2015

[LB316 LB406 LB415]

The Committee on Judiciary met at 1:30 p.m. on Thursday, February 19, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB316, LB415, and LB406. Senators present: Les Seiler, Chairperson; Ernie Chambers; Laura Ebke; Bob Krist; Adam Morfeld; Patty Pansing Brooks; and Matt Williams. Senators absent: Colby Coash, Vice Chairperson.

SENATOR SEILER: So welcome to the Judiciary Committee hearing. My name is Les Seiler and I'm Chairman of the committee. From my right is Matt Williams from Gothenburg; Adam Morfeld from Lincoln; Bob Krist from Omaha; Ernie Chambers from Omaha. Legal counsel is Josh Henningsen. Far left is Laura Ebke from Crete; Senator Pansing Brooks from Lincoln. And Colby Coash will be back. He's introducing a bill right now. Our clerk is Oliver VanDervoort. We have two pages, Drew and Jonathan. And we want you to fill out your testimony sheets. Hand them to one of our pages when you come up to testify. State your name and spell it for the record. Please pull up close to the microphone. It's not so important for volume, but it is important for the transcribers. Shut off your telephones and gimmicks. We are a gadget committee so that the committee will be using their gadgets. And, Senator Kintner, you may start by opening on LB316. We will be on the clock for testifiers. [LB316]

SENATOR KINTNER: Okay. All right, sounds good. [LB316]

SENATOR SEILER: Yep. Go. [LB316]

SENATOR KINTNER: (Exhibit 1) Thank you, Mr. Chairman. Members of Judiciary Committee, I'm Senator Bill Kintner, B-i-l-l K-i-n-t-n-e-r. I represent Legislative District 2 and I'm here to introduce LB316. LB316 prohibits Nebraska from entering into an interstate compact with another state to impose or collect information or civil fines for supposed traffic violations in the other state captured by a red-light camera or a speed

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camera. It also prohibits the sharing of such information under any current interstate compacts unless such compact specifically allows or requires such information to be used and shared for that explicit purpose. This last year I became aware of similar legislation that was passed in South Dakota, and this bill is modeled on that legislation. I've always had an issue with automated systems that ticket the public for supposedly running a red light or speeding. Besides the privacy issues that arise from having cameras everywhere, I believe these systems diminish our due process protections. For example, when you're not ticketed at the time of supposed violation, you become aware of it sometime later, maybe weeks. How is one to effectively defend themselves against such a claim days or weeks after the event? I would think that most people would just relent and pay the civil penalty, which leads to another reason I believe that we should not provide the information. Many of these systems become nothing more than a revenue generator for that state's government using these systems, and third-party companies running the systems are selling the information. Ostensibly what happens is they're using our systems to be ATMs to fund their government. I do have a handout that shows the current red-light camera and speed camera laws in other states for your information. Recently my office had discussions with Department of Motor Vehicles regarding the information-gathering process involved with other states ticketing Nebraska residents. How it works is an out-of-state government entity contacts with a vendor that provides the camera systems and provides the service of tracking down the owner of the vehicle to issue the civil fine for the ticket. These vendors purchase the personal information from a third-party company, like Experian, who has obtained the information for many reasons from Nebraska DMV. Nebraska DMV has contracts with companies like Experian that outline the purposes for which the information can be used according to Nebraska Uniform Motor Vehicle Records Disclosure Act. It seems that this act would need to be amended though--and as we looked at it, we'll be getting an amendment to you, but it's going to take a little more work--to be effective and actually accomplish the purpose desired. Of course, I'd be glad to work with the committee in drafting such an amendment. I'll try to answer any questions at this time. Thank you for your consideration. [LB316]

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SENATOR SEILER: Senator Chambers. [LB316]

SENATOR CHAMBERS: Senator Kintner, tell your staff member to get behind your chair so that you won't fall over. (Laughter) The city of Omaha enacted a red light ordinance. I did the research, I filed a petition, I wrote the brief, and the judge struck it down as unconstitutional. So for some of the reasons you mentioned and others, I'm in agreement with you. Those...that's what they call cash register justice. They have led to accidents, rear-ending, because somebody might think that the camera is going to catch them, so they stop and somebody else plows in. They are strictly moneymakers and mostly for the camera companies. And there's no such thing in Nebraska as some of the fines they're talking about, because traffic infractions in Nebraska are crimes. And any fine goes to the school fund. And the city council apparently didn't know that, because they were going to label it a nuisance so they could keep part of the money, give part of it to this outfit. So it's kind of a corrupting activity, too, because you have various entities of government trying to figure a way to circumvent their existing law. And when you are ticketed in Nebraska, you get a chance to confront the officer. The officer has to appear in court, testify, and prove beyond a reasonable doubt every element of the offense. And when the crime is established by a camera, you're denied that. And in addition to that, you cannot have one system where if you're ticketed for the same offense, which is speeding, by a live officer, then it's handled one way, if it's by a camera it's the same offense but it's not a crime. So there are so many complexities that are created by this kind of thing that I'm glad to see that you have this legislation because not only...if I understand your bill, we're not talking about cameras that are used in Nebraska. But if it was used to catch somebody in another state and that person lives in Nebraska, then Nebraska's law is not going to recognize that and cooperate in any way with giving information over about this person or imposing a penalty if that person does not pay whatever they're trying to get in the other state. Am I generally correct? [LB316]

SENATOR KINTNER: That is correct. We will share no information with them. [LB316]

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SENATOR CHAMBERS: Okay. [LB316]

SENATOR KINTNER: And remember, for criminal penalties we're still there. So if you create a...you know, you get a regular criminal offense in our state, then we'd cooperate like normal. This is just for, exactly as you it, actually, better than me,... [LB316]

SENATOR CHAMBERS: The traffic in...right. [LB316]

SENATOR KINTNER: It's exactly what it does, exactly what it does. [LB316]

SENATOR CHAMBERS: See, we can get along. (Laugh) [LB316]

SENATOR SEILER: Senator Krist. [LB316]

SENATOR KRIST: Mark the day on the calendar,... [LB316]

SENATOR MORFELD: Let's just go (inaudible). [LB316]

SENATOR KRIST: ...remember the day. (Laughter) This is not meant to ask a question that I or you...because I don't know the answer. But I have experience of driving in foreign countries using...as long as you have a valid driver's license in the United States. So my valid driver's license would be Nebraska. When you drive in England using that and you get a ticket, they're going to send the ticket and they're going to ask for information. So what I guess I'm asking is...well, legal counsel or your LA...entering an interstate compact within the United States is one thing. I think international driving privileges may have a different twist; maybe not. I don't know. But I just...I mention that to you for...so we don't get ourself in a situation where we put the citizens in a bad situation. That driving in a foreign country issue, using a Nebraska license is not all countries. Sometimes you need an international license in order to drive there. But there

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are privileges and when you use that license, now you're in a foreign country, you're liable to those laws. So I just mention it to you so that we don't run ourself into a problem. [LB316]

SENATOR KINTNER: Yes. [LB316]

SENATOR KRIST: Thank you. [LB316]

SENATOR SEILER: I have one question. Do you know if this will prohibit Denver International Airport from sending you a ticket when you've missed the turnoff and go park in the parking lot? [LB316]

SENATOR KINTNER: Well, I don't know. (Laugh) I guess, if they give it to you live, you get to...you're... [LB316]

SENATOR SEILER: No, it's on camera. [LB316]

SENATOR KINTNER: No, you...nope, nope. We won't share it with them, no. [LB316]

SENATOR SEILER: Okay. [LB316]

SENATOR KINTNER: I guess that's half of the... [LB316]

SENATOR KRIST: But you'll never be able to go back to Denver International again. (Laughter) [LB316]

SENATOR KINTNER: Like I said, there's one...we're checking on one more thing. We talked to DMV and they said there might be a little better way to do it. So we're going to research that a little more and I think we're probably going to amend this and we'll get that right to you. [LB316]

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SENATOR SEILER: I should have known that there's no free lunch in the world and free parking at Denver International wasn't part of the world, so. Any further questions? [LB316]

SENATOR CHAMBERS: Just that I'll work with Senator Kintner on whatever DMV gives him to make sure that we accomplish the goal that we are seeking. [LB316]

SENATOR KINTNER: Fantastic. [LB316]

SENATOR SEILER: Thank you very much. First proponent. Seeing nobody scrambling to their seats, first opponent. How about neutral? You may close. (See also Exhibit 2.) [LB316]

SENATOR CHAMBERS: Look, when Chambers and Kintner agree on something, (laughter) that ought to tell you something. [LB316]

SENATOR EBKE: We've come to the end times. [LB316]

SENATOR KRIST: Can I just make a comment? Hallelujah. (Laughter) [LB316]

SENATOR KINTNER: All right, thank you. [LB316]

SENATOR EBKE: There's some sort of weird karma going on here (inaudible). [LB316]

SENATOR PANSING BROOKS: Jeez, that was something else. [LB316]

SENATOR KRIST: Is this Friday? [LB316]

SENATOR EBKE: It should be. [LB316]

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SENATOR SEILER: Friday the 13th with a full moon. (Laughter) [LB316]

SENATOR PANSING BROOKS: Gosh. [LB316]

SENATOR SEILER: Okay. [LB316]

SENATOR EBKE: Your turn. [LB316]

SENATOR PANSING BROOKS: I guess it's my turn. [LB316]

SENATOR SEILER: Where's the next bill? LB415, Senator Patty Pansing Brooks. You may open. [LB415]

SENATOR PANSING BROOKS: (Exhibit 1) Thank you, Chairman Seiler and colleagues on the Judiciary Committee. This bill I'm sort of interested and happy to present. My name, for the record, is Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g, Brooks, B-r-o-o-k-s. And I represent Legislative District 28 right here in the heart of Lincoln. I'm here to introduce to you LB415, a bill that was brought to me by the Nebraska Uniform Laws Commission. I am passing out my testimony today because the bill is a little bit complicated, and so sometimes I think it helps to...I'm sorry to have you read along, but some of the terms are a little...were a little bit different to me and took me awhile to really wrap my head around, so I thought maybe it would be easier. So the Nebraska Uniform Law Commission is a prestigious and highly respected group of attorneys, including two former deans of the University of Nebraska Law School, Chancellor Harvey Perlman and Steve Willborn, Eighth Circuit Court of Appeals Judge Arlen Beam, along with Nebraska's Revisor of Statutes Joanne Pepperl and retired attorney Larry Ruth, who is here to speak today. LB415 incorporates changes required by the federal 2008 Uniform Interstate Family Support Act, which I will call UIFSA, which established a reciprocal agreement for the enforcement of international child support cases. I want to

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provide a little bit of history on this so that you can see how this bill fits into the bigger picture. The Child Support Enforcement and Paternity Establishment Program was enacted in 1975 as a joint federal and state program. Its purpose was to secure financial support for children from their noncustodial parents rather than having to depend solely on public assistance. All 50 states operate their own child support enforcement--CSE--programs and are reimbursed by the federal government for 66 percent of the cost of operating those programs. In Nebraska, the federal share is approximately \$23 million annually. And I'm going to pause here just briefly to tell you I've added a couple attachments. One is to define and sort of remind us all about the different UIFSA/TANF/ADC, what those anagrams (sic) stand for. Also, I have a copy of the Child Support Enforcement Act that brings this law to us today. And then finally I have a letter from the federal...it's...let me get...federal Office of Child Support Enforcement which is giving direction to our Health and Human Services. So I just wanted you to know as I go along what this all is. So...and if you look at the fiscal note, too, you'll note that this has the potential of saving a minimum of \$88 million. That's why I'm sort of excited about this. So perk up, everybody. This is good. Securing financial support from custodial parents was an important part of the 1996 welfare reform. That reform, known as the Personal Responsibility and Work Opportunity Reconciliation Act, replaced the public assistance programs in place at the time with a block grant program known as the Temporary Assistance for Needy Families, or TANF. Under this new law, each state is required to operate its child support enforcement program--CSE--so that the requirements set out by the federal government in order to be eligible for the TANF funding are met. In addition, the act required that all states must have in effect the Uniform Interstate Family Support Act, addressing the reciprocal issuance of and enforcement of child support orders of other states. Congress mandated states to adopt UIFSA by January 1, 1998, or face the loss of federal funding for their CSE programs. All 50 states complied. The Uniform Interstate Family Support Act was first drafted in 1992 by the Uniform Law Commission. That's the national commission. The act was revised in 1996 and again in 2001, with additional amendments in 2008. While there was a mandate for the states to adopt the 1996 version of the act, there was no such

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mandate to adopt the 2001 or 2008 versions of the act. Nebraska did, however, pass LB148 in 2003, adopting the 2001 version. Currently, the 2001 version is in place and that is the law that I'm seeking to amend today both to update it to the 2008 version, which would then include the language regarding the requirement that states enact the international reciprocity of custody orders. So, in 2007, after four years of deliberation, the Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance was adopted at the Hague Conference on Private International Law. The United States delegation was the first to sign the Hague Convention. Since then, the European Union, Norway, and others have signed the Hague Convention, as well. UIFSA contains procedures for processing international child support cases that are reciprocal, uniform, and accessible to U.S. citizens who are seeking recognition of child support, custody, or visitation orders in other countries. UIFSA is based on the agreement of countries that ratified the Hague Convention to recognize and enforce each other's support orders. UIFSA established similar procedures, which are already in place in the United States, for processing interstate child support cases. As a matter of fact, many of the provisions of the Hague Convention were drawn from the U.S. experience with the Uniform Interstate Family Support Act. Additionally, the Hague Convention and the conforming amendments to UIFSA will not affect child support cases rendered within the United States--it will only apply to cases where the custodial parent and child live in a different country than the noncustodial parent--nor does UIFSA affect substantive child support law, which is generally left to the individual states. The primary focus of the Hague Convention and UIFSA concerns uniform procedures for reciprocal enforcement of child support decisions and for cooperation among participating countries. In October 2014, President Obama signed the Preventing Sex Trafficking and Strengthening Families Act which serves as the federal implementing legislation for the Hague Convention, and that's what this UIFSA legislation is...fits under. This law requires that all states enact the 2000 UIFSA amendments by the end of the 2015 Legislative Session--that's July 1--as a condition for continued receipt of federal funds supporting state child support programs. Nebraska will then be required to adopt the reciprocal additions to UIFSA by July 1, 2015, or risk losing significant federal

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dollars. As a reminder, the laws adopted pursuant to the Hague Convention constitute an international treaty which has supremacy over both state...both federal and state laws. During the last five years, Nebraska has received an average of \$23.5 million annually in federal funding for our child support enforcement program and an additional \$4 million in incentive payments. All of that funding will be lost if we fail to adopt this legislation this year. Also at risk are the TANF--the Temporary Assistance to Needy Families--funds. Since the implementation of TANF in 1996, those funds have been tied to a state's collection of child support payments. Without the federal funding for child support enforcement, it would be difficult, if not impossible, for our state to meet federal requirements for child support collection. In fiscal year 2012, Nebraska received over \$57.5 million in TANF funds. Again, that funding is at risk if we fail to pass this legislation. Without the federal funding to establish and enforce child support orders, it is likely that we would also see an increase in the number of single mothers in Nebraska who would qualify for public benefits, such as the Supplemental Nutrition Assistance Program, or SNAP. Attempting to calculate those actual dollars lost would amount to nothing more than speculation. As I said at the start of the testimony, the bill was brought to me by the Uniform Law Commission, who worked with our Bill Drafting Office to create this legislation. My office has been in contact with the Nebraska Child Support Enforcement Office at HHS. They provided me with a copy of a letter which I have provided to you this morning from the Federal Office of Child Support Enforcement. This letter explains what the state must do in order to be in compliance and to continue to receive federal funding for child support enforcement, as well as TANF funds. To make sure that the record is clear, I want to read from the fiscal note provided by the department. "The Federal Office of Child Support Enforcement (OCSE) has advised Nebraska's Child Support program, in writing, that if this is not accomplished, there will be a loss of all federal funding for the program. The OCSE estimate is a loss of federal funds to Nebraska in excess of \$85 million in IV-D funds, TANF funds and incentives." Failing to pass the bill this year would obviously not only be detrimental to the persons who rely on public assistance, but it would also leave Nebraska with diminished resources to establish and enforce child support orders. With that, I ask for your support

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of LB415 and will attempt to answer any questions that you have. Following me will be Larry Ruth, who is a member of the Nebraska Uniform Law Commission, as well as Lindsay Beaver, who is the legislative counsel for the Uniform Law Commission in Chicago, to address any really specific questions you might have. Yes, Senator Chambers. [LB415]

SENATOR CHAMBERS: The federal government's enforcement mechanism is very subtle and... [LB415]

SENATOR PANSING BROOKS: Yes. [LB415]

SENATOR CHAMBERS: ...gentle and light-fingered, if you ask me. [LB415]

SENATOR PANSING BROOKS: Yes. [LB415]

SENATOR CHAMBERS: Is it only \$85 million or more? [LB415]

SENATOR PANSING BROOKS: I think it could be more, but... [LB415]

SENATOR CHAMBERS: Oh, well, then I take...erase everything I said. [LB415]

SENATOR SEILER: Senator Krist. [LB415]

SENATOR KRIST: Coming from the world of the Health and Human Services Committee, I can tell you that TANF is a mainstay in taking care of kids and families in a lot of ways. I am pretty proud that you found this out with your...with the help and that you took it to the extent that you did. And I'll make the point for the record, had it not been for Senator Pansing Brooks's insistence, once again, our Department of Health and Human Services would not have reacted, would not have made us aware. And the time that I've been in this Legislature, missing these kinds of notifications have cost us

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millions of dollars in pulled-back funds, in fines, in penalties. And this should go on notice for this administration to understand they need to pay attention to the mail and to the requirements because this would have been devastating. So I thank you for bringing this bill. [LB415]

SENATOR PANSING BROOKS: Thank you, Senator Krist. I appreciate it. [LB415]

SENATOR SEILER: I see nothing further. [LB415]

SENATOR PANSING BROOKS: Okay, thank you. [LB415]

LARRY RUTH: (Exhibit 1) Senator Seiler, members of the Committee, my name is Larry Ruth, L-a-r-r-y R-u-t-h. I am a member of the Nebraska Uniform Law Commission and I appear today in support of this bill. The Uniform Law Commission...the Nebraska Uniform Law Commission is an agency of state government. It's been around for approximately 80...60 years. We've had probably over 100 bills adopting uniform state laws in the state. Probably the one that you may have heard of before, at least the lawyers of the group, would be the Uniform Commercial Code. It's a volume about that thick. I think it's Volume 6 that sits on your desk. That all comes from the Uniform Law Commission and the work of the various states in this area. Each state has a uniform law commission, and then we all belong to a Uniform Law Commission out of Chicago that helps to kind of direct this, similar to many of the national organizations. Following me will be Lindsay Beaver who is with the Uniform Law Commission out of Chicago. The Nebraska Uniform Law Commission are the ones that she stated the members. We usually appear in front of the Banking, Commerce and Insurance Committee, but we have an awful lot of bills that have come here too. We look to those bills and fill those areas which are usually ignored. I've got to tell you, nobody is interested in child support or child jurisdiction, the really tough types of bills that talk about procedure, except as an interest group, except perhaps those of us who think that it's important to have uniformity in these areas. On questions of child...the jurisdiction over children, over

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adults who need supervision, those are the kinds of things we've worked with on this committee before. So we're happy to bring this bill to you. We submitted this bill as a part of our annual report that we do every year. We have four bills this year. They are in the area of: deployed parents, I think you've already got that one out and it's on Final Reading; unsworn statements, which Senator Morfeld has introduced for us; digital assets, which is in the area of estate planning, and Senator Burke Harr has that; and then UIFSA. We're pleased to bring this, to let you know that this is a nonpartisan, bipartisan group. The law that passed the federal Congress in December was a bipartisan-supported bill. It might have been signed by President Obama, but it was a bipartisan bill and it is...was passed, the requirement that states adopt this, so that we have a uniform application of these kinds of conflict issues. How do you enforce child orders in foreign jurisdictions, not just in other domestic...or other state jurisdiction, but how do you do it when a child from...a mother from Nebraska moves to France and you now have to get your order here enforced in France? Or, other way around, if the child stays here and the pop moves to France and says, I'm not going to pay any child support, how do you get Nebraska's child support order over there and enforced? So I have kits that I've handed out. Those are the kinds of things that give you a little more background on the commission. And I really don't have anything else, except in the kit is a letter from the Conference on Chief Justices going back to 2008. They supported the Hague Convention and that is in essence what LB415 is, is implementing the Hague Convention. Stand for any questions. [LB415]

SENATOR SEILER: Senator Krist. [LB415]

SENATOR KRIST: It goes without saying, Mr. Ruth, that this is again part of supporting our military in their deployed status, as well,... [LB415]

LARRY RUTH: Yeah, absolutely, Senator. [LB415]

SENATOR KRIST: ...which is also one of those steps that we talk about all the time, in

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terms of "BRAC-proofing" our bases for being closed, because we are accommodating those special needs of our military members, so thank you very much for bringing it.

[LB415]

LARRY RUTH: Thank you. I'd introduce Lindsay Beaver. [LB415]

SENATOR CHAMBERS: Before... [LB415]

LARRY RUTH: Senator. [LB415]

SENATOR CHAMBERS: Before Brother Ruth leaves, I just want to make a comment. He probably has forgotten the first time I said it. Now I've been in this Legislature a lot of years and you've been here almost as long as I've been in the Legislature, maybe even before, and when he's no longer with us, this place will then be "Ruth-less." (Laughter) [LB415]

LARRY RUTH: Okay. Thank you, Senator. [LB415]

SENATOR SEILER: Please pronounce your name and spell it, please. [LB415]

LINDSAY BEAVER: (Exhibit 3) Chairman Seiler, members of the committee, my name is Lindsay Beaver, for the record, L-i-n-d-s-a-y B-e-a-v-e-r. I represent the Uniform Law Commission, where I'm legislative counsel, and I'm here today to urge your support for LB415, the Uniform Interstate Family Support Act, or UIFSA. The ULC has a long history of developing uniform acts intended to reduce the diversity of child support law and ensure recognition and enforcement of child support orders. Since 1998, UIFSA has been the law in every state, including Nebraska. UIFSA is used daily in numerous interstate cases which are processed through the child support system in the United States and is familiar to attorneys, judges, and child support caseworkers. In an age of globalization, the international expansion of consistent rules for enforcement of child

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support, such as those provided in UIFSA, seems a natural development and one that will be advantageous to American citizens. As previously discussed, the U.S. signed the Hague Convention in 19...sorry, in 2007. Although tribunals in the United States as a general matter already recognize and enforce the orders of foreign tribunals, the reverse is not necessarily always the case. In time, it is anticipated that the convention will achieve a high level of integration with many other countries, and this will help ensure that American orders are enforced in other lands. No longer will an American citizen have to relitigate support matters in distant jurisdictions or forgo support altogether. In drafting the act, the ULC worked closely with representatives from the federal government, both the Department of State and the Department of Health and Human Services, and state child support organizations to help implement the convention without imposing burdensome changes to state law. I urge a positive vote on LB415 to update Nebraska's version of UIFSA. Doing so will improve the enforcement of American child support orders abroad, wherever the parents reside. Thank you, and I'm happy to answer questions. [LB415]

SENATOR SEILER: Senator Krist. [LB415]

SENATOR KRIST: Just...this is a very large bill by standard. Have you looked at it technically to see if these kind of things are...I mean there's a lot of existing language, there's a lot of things that are crossed out, and there's a lot of things that are added. And not to put any burden on Senator Pansing Brooks or bypass her, but have you looked at it? [LB415]

LINDSAY BEAVER: Looked at LB415? [LB415]

SENATOR KRIST: LB415, yes. [LB415]

LINDSAY BEAVER: So I've looked at it at a very high level. OCSC, the federal Office of Child Support Enforcement, has been working with states to provide a technical review.

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Sort of the ordinary course in most states has been that the agency, the state child-support agency in the states, have done the first review, and then they'll go to the Office of Child Support Enforcement to see whether this actually conforms with the verbatim requirement. So I'm not sure if you have a copy of this in your packets, but in October of this year the Office of Child Support Enforcement, OCSC, issued a federal directive that said that states needed to adopt UIFSA verbatim. So that is what they're working with states to make sure is...every bill draft is compliant with that. So I haven't personally looked at this draft to make sure it's compliant, and I defer to Senator Pansing Brooks to the extent that OCSC has been involved or working with the agency. I'm not sure what the specifics have been in Nebraska. [LB415]

SENATOR KRIST: Sure. Well, I thank you for that. And I'm sure we'll hear about it in closing. But my only concern is that that letter is pretty general in terms of what they describe for us to do and that we cross all the t's and dot all the i's because we can't afford to mess this up. So thank you for coming. [LB415]

SENATOR SEILER: Any further questions? Thank you very much for your testimony. [LB415]

LINDSAY BEAVER: Thank you. [LB415]

SENATOR SEILER: Anybody in...or further proponents? Seeing none, any opponents? Seeing none, anybody in the neutral? Seeing none, we will make the letters and the documents submitted to us part of the record, and you may close. [LB415]

SENATOR PANSING BROOKS: Thank you, Senator Seiler. I just want to speak briefly to your question, Senator Krist. Thank you for asking that. Yes, we...what I know, and the reason that I mentioned this group, is that the people that are affiliated with the Uniform Laws Commission in Nebraska--Judge Arlen Beam, Dean Harvey Perlman, Dean Steve Willborn, and Larry Ruth and Joanne Pepperl--have been meeting to go

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through all of this and understand and make sure that every "i" is dotted. Now the part we're missing is that this is the first time that the Uniform Laws Commission has sent somebody from their national office because generally we are working with Health and Human Services to be able to determine if everything is fine. And so all I can tell you is I read it through. I understand it as well as I can. I cannot say to you that I know for sure that every word that is required under the Hague Convention is in there. I'm trusting the brilliance of the people who brought this to me, which I do not say lightly. But of course it would be best if Health and Human Services also takes a look at it to make sure that...but I think that you all went through it really carefully and know what was required. And so I read it for content. I didn't read it for exactly what was required under the convention. [LB415]

SENATOR KRIST: So if I could just respond to that part of it, now that you just saw that letter that was...you asked to be transmitted this morning,... [LB415]

SENATOR PANSING BROOKS: Yes. [LB415]

SENATOR KRIST: ...before we kick this out, let's make sure that there isn't any hidden provision within the documentation that came from the feds for HHS, if you would, please. [LB415]

SENATOR PANSING BROOKS: Great. We will try to...we will contact HHS and make sure that they understand that. In referring to the letter, I just...I added that because, as you can see, the last sentence of that letter that says...Administration for Children and Families, which is the federal department, says, "Nebraska is required to pass UIFSA 2008 in the next legislative session beginning in 2015." So I wanted to add that and then I also...the previous document showed the Office of Child Support. If you look at the...under the subject line, the second paragraph says that...it states that 113-183 requires UIFSA 2008 must be in effect in every state "no later than the effective date of laws enacted by the legislature of the state implementing such paragraph, but in no

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event later than the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the date of the enactment of this act," so... [LB415]

SENATOR KRIST: Sounds like this might be your first emergency clause, Senator. [LB415]

SENATOR PANSING BROOKS: I think it is an emergent...you're exactly right, so we will request an emergency clause. So I...it's really, as a lawyer, quite a privilege to get to bring an international treaty to the Legislature and see the whole circumference of the laws and how they all work. So anyway, thank you for this opportunity. Any other questions? [LB415]

SENATOR SEILER: Seeing none, thank you. [LB406]

SENATOR PANSING BROOKS: Okay, thank you. [LB415]

SENATOR SEILER: This closes the hearing on LB415. We will now open the hearing on LB406, Senator Morfeld. [LB415]

SENATOR MORFELD: Well, the bad news is that this bill will not save the state \$85 million. (Laughter) The good news is I'm going to probably ask you guys to hold this bill as we're working on some stuff behind the scenes with this for this year, so...but I do want to open on it and give you guys a little background on the issue, because we may be coming back to this or I may be asking you to come back to it next year. Senator Seiler, members of the Judiciary Committee, my name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, representing the 46th Legislative District, here today to introduce LB406. LB406 changes provisions relating to actions for the recovery of vacant, platted, and subdivided real property and changes the required period from 10 to 20 years if the real property is vacant, platted, and subdivided. The doctrine of adverse possession

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provides that a person can acquire rights to real property that the person does not actually currently own by making a showing that the person's possession of the property was actual, exclusive, notorious, adverse, and lasted for a certain amount of time. The amount of time required varies state by state. In Nebraska, the current law provides for a ten-year period. In South Dakota, however, the period is 20 years. In Kansas and Minnesota, the period is 15 years. LB406 changes the required adverse possession period to 20 years if the real property is vacant, platted, and subdivided. One example of this would be a new housing subdivision. With the recent downturn in the real estate market, some developers are seeing situations where a home buyer builds a house on a lot next-door and the next-door lot--excuse me--and the next-door lot remains undeveloped for some time. Meanwhile, that home buyer is planting a yard, mowing it, and planting trees. We can all imagine how grass might continue to grow out past the actual lot line or how a tree may be planted in the wrong spot. LB406 would prevent a situation where the adjoining empty lot could be subject to adverse possession after just ten years. Instead, the 20-year period would be a better safeguard in this situation and in economic downturns, as well. It has come to my attention that, after introducing the bill, that some lawyers have concerns about changing the adverse possession period. I've never been a fan of it in law school or else or otherwise. But additionally, at least one case on adverse possession is now making its way through our appellate courts. I respectfully request that the committee not advance LB406 at this time and that we let the lawyers who have concerns meet, and maybe we can come to an agreement next year. Thank you for your time, and I'll waive closing. [LB406]

SENATOR SEILER: Senator Chambers. [LB406]

SENATOR CHAMBERS: I respect your respectful request. [LB406]

SENATOR MORFELD: Thank you, Senator Chambers. That means a lot to me actually. I appreciate that. Any other questions? [LB406]

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SENATOR SEILER: Any others? We will hold this bill then and... [LB406]

SENATOR MORFELD: Okay. Thank you very much for your time. [LB406]

SENATOR SEILER: Or would you rather have it IPPed? [LB406]

SENATOR MORFELD: Well, I told Colby Coash that his bill got killed via text, so we'll see what he thinks when he comes back. (Laugh) Thank you. [LB406]

SENATOR PANSING BROOKS: Wow. [LB406]

SENATOR SEILER: Pardon? [LB406]

SENATOR PANSING BROOKS: I said "wow." It's 2:15. [LB406]

SENATOR MORFELD: It's a record. [LB406]

SENATOR SEILER: It's a new record. [LB406]

SENATOR MORFELD: I don't know if there's anybody else, but... [LB406]

SENATOR PANSING BROOKS: Holy moly. What are we going to do? [LB406]

SENATOR SEILER: We're going to go into Executive Session (laughter). [LB406]

SENATOR PANSING BROOKS: An Exec. [LB406]

SENATOR WILLIAMS: That's what we're going to do. [LB406]

SENATOR PANSING BROOKS: Wow. [LB406]

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SENATOR KRIST: I move we go into Executive Session. [LB406]

SENATOR CHAMBERS: But if people came to speak on the bill, maybe they should, for the record. [LB406]

SENATOR SEILER: Wait a...wait. Did anybody come to speak? That's a good point, Senator. Nope. [LB406]

SENATOR KRIST: That's the right answer. [LB406]

SENATOR WILLIAMS: We're not letting them. [LB406]

SENATOR SEILER: We'll close the hearing. [LB406]